

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

<p>Oji Konata Markham,</p> <p>Plaintiff,</p> <p>v.</p> <p>A. Tolbert, et al.,</p> <p>Defendants.</p>	<p>Case No. 22-CV-0187 (SRN/DLM)</p> <p>ORDER</p>
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SUSAN RICHARD NELSON, United States District Judge

This matter was dismissed on February 7, 2024, and judgment was entered the following day. Following the entry of judgment, plaintiff Oja K. Markham filed several motions attacking the validity of that judgment, the propriety of the undersigned having presided over this case and—strangely, since he filed the lawsuit—the basis for this Court’s jurisdiction. These post-judgment motions were denied on April 2, 2024. *See* Doc. No. 84.

Perhaps realizing that any notice of appeal he might file today from the dismissal of this matter would be untimely, Markham now requests that one or more of those post-judgment motions be construed as a notice of appeal. *See* Doc. No. 87. Markham also requests that he be granted *in forma pauperis* (“IFP”) status for that appeal. *See* Doc. No. 89.

Both requests are denied. Rule 3(c)(1) of the Federal Rules of Appellate Procedure is clear that a valid notice of appeal must:

- (A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney

representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”;

(B) designate the judgment—or the appealable order—from which the appeal is taken; and

(C) name the court to which the appeal is taken.

None of the post-judgment documents filed by Markham satisfies these requirements. Accordingly, the Court was correct not to construe those documents as a notice of appeal then and will not do so now.

Finally, “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Markham cannot now appeal the judgment in this matter—he has waited far too long for that. *See* Fed. R. App. P. 4(a)(1). Any appeal taken from the dismissal of this matter therefore could not be taken in good faith. Nor could Markham appeal in good faith from *this* order—not because the appeal would be untimely, but because Markham would have no non-frivolous basis upon which to seek appeal.

Based on the submissions and the entire file and proceedings herein, **IT IS HEREBY ORDERED THAT**

1. The motion of plaintiff Oji K. Markham to regard his post-judgment motions as a notice of appeal [Doc. No. 87] is **DENIED**.

2. Markham’s application to proceed *in forma pauperis* on appeal [Doc. No. 89] is **DENIED**.

Dated: September 3, 2024

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge